IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 527 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT
Versus
RAVJIBHAI JIVABHAI THAKORE

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Appearance :
MR IM PANDYA APP for Appellant
MR VA MANSURI for Respondent

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

and

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 26/04/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.R.VORA)

[**1**] This appeal is preferred by the State under Section 378 of the Code of Criminal Procedure against the judgment and order delivered by the Additional Sessions Judge, Fast Track Court No.2 and Special Judge, Panchmahal at Godhra on 1st December, 2003 in Sessions Case No.55/2000 (Atrocity). The present respondent was the accused in the said Sessions Case and was charged for the offences punishable under Sections 363, 366 and 376 of the Indian Penal Code as well as under Section 3(1)(11) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The learned Judge vide above referred judgment and order acquitted the accused for the above said charges levelled against him and hence, this appeal by

the State against such order of acquittal.

[**2**] Learned APP Mr.I.M.Pandya for the appellant – State and learned advocate Mr.V.A.Mansuri for the respondent, original accused were heard at length.

[**3**] Leave to appeal is granted. Appeal is admitted. Learned advocate Mr.V.A.Mansuri waives service on behalf of the respondent.

[**4**] Both the learned counsels for the parties submitted that the matter is required to be heard finally at this stage on account of facts and circumstances of the case. Learned counsels for both the parties further submitted that the Record & Proceedings from the trial Court is called for which is available, and extra copies of the documents and the evidence are also made available to the Court for the final hearing.

[**5**] The request of learned counsels was granted and the appeal was heard finally.

[**6**] The name of the victim is not published in this judgment and she is referred to as “victim” in persuasion of the observations of the Apex Court, in the matter of ***Dinesh alias Bhuddha Vs. State of Rajasthan***, as reported in ***(2006) 3 SCC 771***.

[**7**] As per the prosecution case, a complaint of the case was offered by Shivnathram Bholaram Harijan, P.W.4, examined at Ex.18. According to him, he was staying at village Baska and was doing labour work in various factories. In village Baska, he was staying with his family consisting of his wife Geetaben, son Ankur and daughter Rubi. According to the complainant, his mother-in-law died before ten years i.e. in 1988 and she had left only one daughter i.e. victim, younger sister of his wife Geetaben. She was only three years at that time and she was also, since

then, staying with his family. In 1988, when complainant's mother-in-law died, victim was aged about 3 years. The incident occurred around 22nd June, 2000. According to the complainant, on 12th June, 2000, he was working as labour in Steel Factory, situated at village Lohana and came to his house for snack in the afternoon at about 4.00 p.m., he did not notice victim in the house and inquired about her from his wife. His wife replied that victim had been to collect wooden sticks before half an hour. She had not returned and, therefore, they made search for her. Fifteen days thereafter, i.e. on 21.06.2000 complainant went to the house of one Habibbhai at Baska village and Habibbhai was conveyed by them that victim was missing. Thereupon, one boy named Roshanbhai was called and he was shown photo of victim. Then Roshanbhai said that victim was at village Kuni and that she was staying in the house of some Hindu boy. The complainant, therefore, went to village Kuni and went to the house of the accused and victim was informed that

her sister Geetaben was sick and she should return to his house, but she did not resume the house of the complainant, even after rigorous persuasion and victim was firm in her decision that she had decided to stay with the accused and hence, on 22nd June, 2000, a complaint came to be lodged by complainant - Shivnathram Bholaram Harijan before Senior Police Sub-Inspector, Halol Police Station. A crime came to be registered before Halol Police Station, vide C.R.No.I-255/2000 and investigation was entrusted to the responsible officer. A charge-sheet came to be filed against the accused for the above said offences in the Court of learned Magistrate, who in turn committed the case to the Court of Sessions.

[**8**] Vide Ex.3, the learned Sessions Judge and Special Judge framed charge against the accused on 13th August, 2003 and accused pleaded not guilty. Therefore, the prosecution tendered oral as well as documentary evidence.

[**9**] The prosecution examined in all nine witnesses to prove its case as under:

P.W.1	Dr.Sumanben Vaidhnath Vyas	Ex.7
P.W.2	Jitendrakumar Maganlal Bhagat	Ex.8
P.W.3	Ghanshyambhai Dahyabhai Patel	Ex.11
P.W.4	Shivnathram Bholaram Harijan	Ex.18
P.W.5	Victim	Ex.20
P.W.6	Dr.Amitkumar Shantilal Panchal	Ex.21
P.W.7	Ratansinh Bhagwansinh Parmar	Ex.24
P.W.8	Bharatkumar Chimanlal Bhandari	Ex.25
P.W.9	Mahendra Sanjabhai Bharada	Ex.26

[**10**] The prosecution also produced on record documentary evidence of panchnamas, F.S.L. Reports, Certificate of Doctors, Complaint etc.

[**11**] After the evidence was over, the learned trial Judge recorded the statement of the accused under Section 313 of the Code of Criminal Procedure and the defence of the accused was of total denial by denying the evidence recorded as tendered by the prosecution. In explanation, the accused stated that a false and fabricated case was filed against him. Thereafter, hearing the

learned APP and the defence counsel, the learned trial Judge came to above conclusion of acquittal of the accused of all charges and hence, this appeal.

[**12**] Learned APP Mr.I.M.Pandya on behalf of the appellant – State submitted that the learned trial Judge appreciated the evidence erroneously in this serious case of rape and kidnapping. It is submitted that the fact is established that the victim was abducted by the accused from the guardianship of the complainant, who was husband of her sister – Geetaben. Though ossification test was conducted and her age was proved 20 years at the time of incident and that no other documentary evidence was on record to indicate the age of the victim. It is submitted that the ossification test is not conclusive evidence of the fact and in all probability, the victim might be below age of 18 years at the time of the incident. Having regard to the evidence of victim at Ex.20, it becomes clear that she was forcibly

abducted by the accused with the assistance of other person and was forcibly subjected to intercourse without her consent. It is submitted that there was no reason to disbelieve the victim as she has stated amply that the present accused and one person named Kalu kidnapped her after ganging her mouth and she was taken in one jeep. She also stated in her deposition that how the accused had committed rape on her forcibly and, therefore, there was no reason to disbelieve the victim. Learned APP submitted that there may be some contradictions in the evidence, but considering the evidence in totality, the conclusion arrived at by the learned trial Judge appears to be miscarriage of justice, particularly in view of what is proved by the evidence of victim. It is submitted that victim is well supported by the medical evidence of having committed rape by the accused and the complainant was incharge of her as guardian. It is submitted that there is no reason to disbelieve the evidence of the complainant in

respect of supporting role which is established through his deposition to corroborate the evidence of the victim. It is, therefore, submitted that the appeal is required to be allowed and the judgment and order impugned, is liable to be reversed and the respondent be convicted for the charges levelled against him.

[**13**] As against that learned advocate Mr.V.A.Mansuri for the respondent submitted that firstly, the age of the victim is not established by the prosecution below the age of 18 years or the age of 16 years. No documentary evidence has been produced on record in respect of the age of the victim. It is submitted that Ex.15 a certificate issued by the medical officer after ossification test indicates the age of victim to be of 20 years. Except that according to the learned advocate for the respondent, there is no documentary evidence on record to establish the age of the victim. Supporting the conclusion of the learned trial Judge, it is submitted that

taking into consideration the result of ossification test on the contrary the circumstances coming out of the deposition of the complainant makes it amply clear that the victim was more than even 20 years, as specified through ossification test at Ex.15. It is submitted that the oral version before the police of the victim has been proved in the deposition of Investigating Agency i.e. through the deposition of P.W.8 - Bharatkumar Chimanlal Bhandari, Ex.25 and the deposition given by the victim is in total contradiction of what she stated before the Court, destroying the whole prosecution case. It is established that victim accompanied the accused with her own wish and will and she was not kidnapped. It is also established that the intercourse if any took place between the accused and the victim then the same was with the consent of the victim. Indicating the observation made by the trial Court in the judgment, learned advocate for the respondent submitted that none of the charges against the accused – respondent

could be proved beyond doubt by the prosecution as the age of the victim could not be proved below the age of 18 years or the age of 16 years and that circumstances indicated that the victim accompanied the accused according to her wish. Learned advocate for the respondent, therefore, submitted that the learned trial Judge was correct in coming to the conclusion that none of the charges levelled against the accused was proved by the prosecution against him and it is submitted that well reasoned judgment resting on proper appreciation of the evidence should not lightly be disturbed particularly in an appeal against the orders of acquittal.

[**14**] Having heard learned counsels in detail, we have carefully gone through the Record & Proceedings of the case, which is available with us. We are also assisted by learned counsels with extra copies of the evidence and documents. We have scanned the evidence carefully and we have undertaken the complete and compressive

appreciation of all vital features of the case. With reference to entire evidence on record, we have scrutinized all the broad and reasonable probabilities of the case.

[**15**] Needless it is to say that in appeal against acquittal, though the High Court has same powers as it has in an appeal against order of conviction, but in dealing with the appeal against the acquittal if High Court comes to different findings then reached by the trial Court, the reasons for the acquittal assigned by the trial Court for acquittal will have to be dislodged first by reasoned order. In the matter of ***Ajit Savant Majagvai Vs. State of Karnataka***, as reported in ***(1997) 7 SCC 110***, the Apex Court decided the following guidelines to deal with the appeal against the acquittal. In para- **16** of the judgment, it is observed as under:-

> "**16**. This Court has thus explicitly and clearly laid down the principles which

would govern and regulate the hearing of appeal by the High Court against an order of acquittal passed by the trial court. These principles have been set out in innumerable cases and may be reiterated as under:

(1) In an appeal against an order of acquittal, the High Court possesses all the powers, and nothing less than the powers it possesses while hearing an appeal against order of conviction.

(2) The High Court has the power to reconsider the whole issue, reappraise the evidence and come to its own conclusion and findings in place of the findings recorded by the trial court, if the said findings are against the weight of the evidence on record, or in other words, perverse.

(3) before reversing the finding of acquittal, the High Court has to consider each ground on which the order of acquittal was based and to subscribing to the view expressed by the trial court that the accused is entitled to acquittal.

(4) In reversing the finding of acquittal, the High Court has to keep in view the fact that the presumption of innocence is still available in favour of the accused and the same stands fortified and strengthened by the order of acquittal passed in his favour by the trial Court.

(5) If the High Court, on a fresh scrutiny and reappraisal of the evidence and other material on record, is of the opinion that there is another view which can be reasonably taken, then the view

which favours the accused should be adopted.

(6) The High Court has also to keep in mind that the trial court had the advantage of looking at the demeanour of witnesses and observing their conduct in the Court especially in the witness-box.

(7) The High Court has also to keep in mind that even at that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonable person would honestly and conscientiously entertain as to the guilt of the accused.

[**16**] Now appreciating the evidence of P.W.1 - Dr.Sumanben Vaidhnath Vyas, Ex.7, she stated that while she was serving as Gynecologist at Government Hospital, Halol on 23rd June, 2000, with police yadi victim was brought to her at about 11.00 a.m., but in case history, she stated

that on 12th June, 2000, a rape was committed on her. She was examined by the witness and she found that her hymen had old tear and her sex characters were fully developed. She was habituated to intercourse. The witness referred her to Radiologist for her ossification test.

In her cross-examination, she stated that in case papers, she mentioned the age of the victim to be 15 years at the instance of the police yadi.

[**17**] P.W.2 – Jitendrakumar Maganlal Bhagat is examined at Ex.8. This witness happens to be a panch of Ex.10 panchnama, by which the clothes of the accused were seized by the police. He is also panch of Ex.9 panchnama by which the clothes of victim were seized by the police. However, the witness did not support any of the two panchnamas and stated that he was called in Police Station and on 24th June, 2000 at the instance of police, he signed both the panchnamas. He was declared hostile and was confronted with both the

panchnamas, but he did not support the contents of the said panchnamas.

[**18**] P.W.3 – Ghanshyambhai Dahyabhai Patel is examined at Ex.11. This witness happens to be a second panch of Ex.9 and Ex.10 panchnamas, but he has also not supported both the panchnamas and has turned hostile.

[**19**] P.W.4 – Shivnathram Bholaram Harijan, complainant is examined at Ex.18. He stated that incident occurred before three years and that victim was in his guardianship, after the death of his mother-in-law in 1988. According to him, birth of victim had taken place in 1985. On 12th June, 2000, he came to know that victim was missing and that he made search for her. He also deposed that at the house of one Habibbhai, one boy named Roshan informed him that victim was at village Kuni with one boy and, thereafter, he went to village Kuni where he found victim. He further deposed that about the incident, he preferred a complaint before Halol Police

Station on 22nd June, 2000, which he produced on record at Ex.19. He was confronted with his complaint.

In the cross-examination by the defence, he admitted that he did mention in the complaint that victim was persuaded to resume the house of the complainant, but she had refused and had stated that she had intended to reside with the accused only. In his cross-examination, an attempt is made out by the defence to find out the date of birth of the victim. In his the cross-examination, he admitted that victim was 5 years younger than his wife. In his cross-examination, he also deposed that at the time of deposition his wife was aged about 43 years. This is the evidence of the complainant.

[**20**] P.W.5 – victim is examined at Ex.20. In her deposition, she admitted the relationship with the complainant and stated that Geetaben was her sister and complainant was husband of her sister. She stated that on the date of the

incident, while she was collecting wooden sticks, one Kalu and the accused came and gagged her mouth and kidnapped her in one jeep vehicle. Thereafter, she did not know what had happened and they had taken her to Kuni village. According to her, she was kept in one house for 10 to 12 days. She was not in a position to understand anything, but accused committed rape on her against her consent. Thereafter, her brother-in-law i.e. complainant came after searching her and found her in very bad condition in the house at Kuni. Thereafter, all were gathered in a house of one Muslim and they had sent her with the accused. The persons, who had gathered there had beaten the complainant, her brother-in-law. She denied that she remembered her date of birth. She stated that at the time of incident her age was about 14 years.

In her cross-examination, she was confronted with the police statement and she denied to have stated before the police the facts asked in examination-in-cross. Her statement is

corroborated through Investigating Agency which will be discussed hereafter. She denied the suggestion that at the instance of her sister and husband of her sister, she stated untrue facts on oath. She denied the suggestion that with her wish and will, she accompanied the accused and she denied the suggestion that no rape was committed by the accused.

[**21**] P.W.6 – Dr. Amitkumar Shantilal Panchal is examined at Ex.21. According to him, on 23rd June, 2000 the victim was referred to him by Dr.Sumanben Vyas. He examined the victim and issued detail certificate, which is produced on record at Ex.22. On the same day, he examined the accused produced before him by the police and issued the certificate, which is produced on record at Ex.23.

In the cross-examination, he stated that he had not brought the case papers in respect of victim on that day. In certificate at Ex.22 in respect of victim, he stated that the sex characters of the victim were well developed and

no injury marks were found on her body and, there was old rupture of hymen and the patient was habituated of sexual intercourse. In respect of the certificate at Ex.23, it is mentioned that the accused Ravjibhai Jivabhai Thakore had no marks of injuries on body or blood stains on clothes, the stigma was absent. The samples of saliva, semens, blood etc. were obtained and were sent to chemical analyzer. According to the Doctor, accused was also well developed person.

[**22**] P.W.7. Ratansinh Bhagwansinh Parmar, is examined at Ex.24. According to him, on 22nd June, 2000, he was serving as PSO, Halol Police Station, he received one complaint as forwarded by Senior PSI Shri B.C.Bhandari recorded of one Shivnathram Bholaram Harijan. He registered FIR and the crime for the offences punishable under Sections 363, 366 and 376 of the Indian Penal Code. He has not been cross-examined by the defence.

[**23**] P.W.8 – Bharatkumar Chimanlal Bhandari is

examined at Ex.25 and accordingly, he was working as Senior PSI, Halol Police Station on 22nd June, 2000. In his presence, complainant – Shivnathram Bholaram Harijan offered the complaint which he recorded in respect of kidnapping of victim, who was sister-in-law of the complainant. It was alleged in the complaint that the accused had kidnapped victim. He identified the complaint at Ex.19. The witness submitted that the investigation was taken over by him and he recorded the statement of the person at village Baska. He went to village Kuni and found the accused and the victim, on 24th June, 2000 from village Kuni. He drew the panchnamas at Ex.9 and 10 for seizure of the clothes of the accused and victim. He recorded the statement of the victim and since the offence was committed under Section 376 of the Indian Penal Code and under Section 3(1)(11) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, a yadi was addressed to learned Magistrate to add those sections in the investigation. The remaining investigation was carried out by

Dy.S.P. The accused was arrested and he identified the accused before the Court.

He was cross-examined in detail, particularly contradiction which were asked to the witnesses about the statement recorded by him, were corroborated. In the cross-examination of defence, the witness admitted that the victim was not prepared to go to the house of her sister and was insistent to go with the accused and, therefore, she was sent to “Nari Sanrakshan Gruh”. He also admitted that in his investigation, he learnt that one Julichachi and other persons persuaded the victim to go to her sister, but she was adamant to remain with the accused and refused to go to the house of her sister. He admitted that no certificate is produced by him denoting the complainant to be of Scheduled Caste.

[**24**] P.W.9 – Mahendra Sanjabhai Bharada is examined at Ex.26 and he stated that on 24th June,

2000, he was serving as Dy.S.P., in Godhra Division, because Dy.S.P. of S.C. & S.T. Cell was on leave on that day and on receiving an information of this crime, he reached Halol. Senior P.S.I. was investigating the crime and he took the investigation from Shri Bhandari. He verified the papers of the investigation as carried out by P.S.I. Shri Bhandari. He identified his signatures on papers as verifying officer. He has been cross-examined by the defence.

This is all the evidence of the prosecution through witnesses.

[**25**] In the documentary evidence, beside panchnama vide Ex.13, a letter addressed by F.S.L. is placed on record and the result is mentioned in the last page of that report. Serological report is also placed on record where all the eight samples of blood, semen, saliva etc. were found of human being, but group of

blood could not be determined. Ex.14 is the letter from Medical Officer, Halol Hospital i.e. P.W.1 – Dr.Sumanben Vyas forwarding the sample of blood etc. in respect of victim and the accused. Ex.15 is the certificate issued by Medical Officer, S.S.G. Hospital Baroda in respect of ossification test and it is certified that the physical dental and Radiological examination recorded the age of the victim to be 20 years. The certificate is admitted on record because the accused had no objection for admitting the said document.

[**26**] On perusing the judgment and order impugned in this appeal, it clearly appears that the learned trial Judge came to the conclusion that the prosecution failed to prove the age of the victim below 18 years as no documentary evidence of age of the victim was produced on record. From Ex.15 a certificate issued by Medical Officer, S.S.G. Hospital Baroda in respect of ossification test and from the

evidence, and from the cross-examination of the complainant, the learned trial Judge came to the conclusion that the victim was even more than 20 years when incident occurred. The learned trial Judge, therefore, acquitted the accused for the charges levelled against him under Sections 363 and 366 of the Indian Penal Code. Along with this, learned trial Judge also considered the averments made in the complaint about the stand taken by the victim girl to stick to the accused instead of resuming the house of her sister. The learned trial Judge also referred to her first version before the police, which is proved in which she amply stated that she had gone with the accused with her wish and will and that intercourse was at her wish and will with the accused. Considering all these circumstances and assigning reasons, the learned Judge acquitted the accused for the offence punishable under Section 376 of the Indian Penal Code as well as for the offence punishable under Section 3(1)(11) of the Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities) Act, 1989.

[**27**] While we examined the evidence recorded during the trial along with the contentions raised, we find that the age of the victim must be above 20 years. Ex.15 is the certificate issued by the Medical Officer, S.S.G. Hospital, Baroda certifying that the age of the victim at the time of incident was about 20 years. An ossification test is not conclusive proof, it appears that this certificate is exhibited on record by consent of the accused and no expert in this regard is examined by the prosecution. The conclusion of the ossification test are always subject to error of either side i.e. on higher side as well as on lower side by difference of about two years of the victim girl. The victim might be of 20 years or 18 years, but along with this evidence, if the evidence of the complainant is noted, it becomes clear that at the time of the incident, the victim girl must be above 20 years. The complainant in clear term, in his

deposition as aforesaid stated that her wife was aged 33 years at the time of incident and that victim was five years younger to his wife. Having regard to this evidence and the evidence of the Medical opinion, we can also safely come to the conclusion that the victim girl is not below 18 at the time of incident and, therefore, the offence under Sections 363 and 366 of the Indian Penal Code could not be proved by the prosecution as the victim girl stated before the police that she voluntarily had gone with the accused.

[**28**] In the above respect and for the allegations of rape against the accused, it is necessary to refer to the evidence of Investigating Officer i.e. P.W.8 – Bharatkumar Chimanlal Bhandari, Ex.25, who recorded the statements of the witnesses including victim. In his examination-in-cross, this witness admitted that victim did not state before him that the accused and one Kalu forcibly kidnapped her from

the place where she was collecting wooden stick nor she stated that without her consent the accused had committed rape upon her and she had gone mad. This omission was brought to the notice of victim and, therefore, the same is proved in the evidence of the Investigating Officer. Likewise, the Investigating Officer, P.W.8 – Bharatkumar Chimanlal Bhandari, Ex.25 also admitted that victim did state before him that the accused was frequently visiting to the house of her sister and, therefore, she had soft relationship with the accused. They were in love and had decided to stay as husband and wife. They had further decided to meet at Hotel Sarvottam, on 12th June, 2000 and accordingly, she had started from her village at 2.30 p.m. and reached at Hotel Sarvottam, where accused met her and from there, they went to Halol in rickshow. She further stated that they both had intercourse with the will and wish of her. According to the Investigating Officer, victim further stated before him that after bringing her to village

Baska, she did not go to the house of her sister and she and accused stayed in house of one Julichachi. They were persuaded by everybody, but she was adamant to stay with the accused and to marry him and, therefore, she refused to go at the house of her sister and the complainant. The Investigating Officer also admitted in his deposition that victim was adamant to remain with the accused and refused to go to the house of her sister and, therefore, she was sent to “Nari Sanrakshan Gruh”.

[**29**] These all the above contradictions and omissions are proved in the deposition of the Investigating Officer. Attention of victim was drawn by defence towards these contradictions, but she denied to have stated so before the police. From the above circumstances, it clearly appears that victim changed her version and modified the case of the prosecution to the above extent. Her initial version of consent is supported and corroborated by the complaint,

which is exhibited at Ex.19 wherein the complainant – Shivnathram has also stated that victim was insistent to remain with the accused. Therefore, when so far as the allegations levelled against the accused under Sections 363, 366 as well as 376 of the Indian Penal Code is concerned, no reliance can be placed on deposition of the victim because we find radical contradictions in the version given by the victim before the police and before the Court. All through out the investigation of the case, the victim girl was found a consenting party to alleged criminal acts of the accused, while she changed the version before the Court and stated about the forcible intercourse by the accused. On account of this proved contradictions, no reliance can be placed upon the say of the victim in respect of the allegations levelled against the accused. So far as the allegation against the accused under Section 3(1)(11) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned, there is no

iota of evidence that the victim girl was kidnapped and raped only because she belonged to Scheduled Caste, so as to cause the insult of the caste of the victim.

[**30**] As aforesaid, we find that the learned trial Judge undertook proper appreciation of evidence recorded during the trial and reached to the right conclusion. Nothing extraneous is taken into consideration by the learned trial Judge, and trial Judge considered the evidence only recorded during the trial. Since, we also reach to the same conclusion as has been reached by the learned trial Judge for aforesaid reasons, we are unable to interfere in the judgment and order impugned in this appeal for the submission advanced by the learned APP.

[**31**] For the above stated reasons, the appeal stands dismissed.

[J. R. VORA,J.]

[BANKIM.N.MEHTA,J.]

(vijay)